

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.622(i),  
Final DTV Table of Allotments,  
Television Broadcast Stations.  
(Birmingham, Alabama)

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MB Docket No. 10-21  
RM-11590

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: February 26, 2010**

**Released: March 2, 2010**

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a Notice of Proposed Rulemaking<sup>1</sup> issued in response to a petition for rulemaking filed by Alabama Educational Television Commission (“AETC”), the licensee of noncommercial educational station WBIQ(TV), channel \*10, Birmingham, Alabama. AETC requests the substitution of channel \*39 for channel \*10 at Birmingham. AETC filed comments reaffirming its interest in the proposed channel substitution. No other comments were received.

2. We believe the public interest would be served by substituting channel \*39 for channel \*10 at Birmingham. AETC asserts that this channel substitution will “serve the public interest by allowing AETC to increase the station’s operating power and improve local coverage, while avoiding the significant limitations on reception resulting from WBIQ’s current high band VHF channel operation.”<sup>2</sup> AETC claims that “building penetration, multipath, and cliff effect issues are hindering the operation of WBIQ’s” channel \*10 DTV facility.”<sup>3</sup> AETC concludes that operation on UHF channel \*39 will not only alleviate the “reception problems associated with its present high-band VHF channel operation,”<sup>4</sup> but will also increase the area and population served by WBIQ(TV).

3. Channel \*39 can be substituted for channel \*10 at Birmingham, Alabama, as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) of the Commission’s rules, at coordinates 33-29-04 N. and 86-48-25 W. In addition, we find that this channel change meets the technical requirements set forth in Sections 73.616 and 73.623 of the Commission’s rules with the following specifications:<sup>5</sup>

<sup>1</sup> *Birmingham, Alabama*, DA 10-57 (rel. Jan. 12, 2010).

<sup>2</sup> *AETC Petition for Rulemaking* at 1.

<sup>3</sup> *Id.* at 2

<sup>4</sup> *Id.* at 2

<sup>5</sup> 47 C.F.R. §§ 73.616 and 73.623. The channel \*39 WBIQ(TV) facility at Birmingham exceeds the maximum allowable ERP and antenna height for television stations operating on channels 14-59, in all zones. 47 C.F.R. §73.622(f)(8). However, the proposed facility will not exceed the geographic coverage of the largest licensed station in the market, WIAT(TV), Birmingham, Alabama, and is therefore permissible pursuant to the Commission’s Rules.

City and State	Channel	Power (kW)	Antenna HAAT (meters)	Service Pop. (thous.)
Birmingham, Alabama	*39	1000	365.5	1,476

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to Section 553(d)(3) of the Administrative Procedures Act.<sup>6</sup> An expedited effective date is necessary in this case to ensure that station WBIQ(TV) can quickly alleviate its reception problems and restore service to former viewers.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS ORDERED, That effective immediately upon publication of this Report and Order in the Federal Register, the Post-Transition Table of DTV Allotments, Section 73.622(i) of the Commission's rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel Nos.</u>
Birmingham, Alabama	13, 30, 36, *39, 50

6. IT IS FURTHER ORDERED, That within 30 days of the effective date of this Order, Alabama Educational Television Commission shall submit to the Commission a minor change application for a construction permit (FCC Form 340) specifying channel \*39 in lieu of channel \*10.

7. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the proceeding listed above, contact Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>6</sup> 5 U.S.C. § 553(d)(3).